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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,131	01/06/2006	Peter Knoll	10191/4150	3608

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EXAMINER
BLOUNT, ERIC

ART UNIT	PAPER NUMBER
2612	

MAIL DATE	DELIVERY MODE
02/07/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/535,131	KNOLL, PETER	
	Examiner	Art Unit	
	Eric M. Blount	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 January 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *12-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *12-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *16 May 2005* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *05162005*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to because they fail to provide proper text labels for reference numbers in Figures 1-4. Further, because Figures 1 and 2 appear to photocopies, the dark coloring makes the images difficult to comprehend. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 24 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Applicant has included a method step including a computer program per se. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 12-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Kojima et al [US 6,327,522 B1].

With regard to **claim 12**, Kojima discloses an apparatus for improving a visibility in a motor vehicle, comprising:

at least one infrared-sensitive image sensor system (3, 23, 43) for acquiring an optical signal from a surrounding environment of the motor vehicle (column 1, lines 45-51);

at least one signaling arrangement (display 8, 28, 48) for producing an item of driver information (column 1, lines 35-41; driver information is interpreted as obstacle information provided to the driver); and

at least one processing unit (control means 1) for controlling the at least one signaling arrangement as a function of the acquired optical signal (column 1, lines 58-63), wherein:

the at least one processing unit includes an arrangement for recognizing a course of a roadway from at least the optical signal, and for controlling the at least one signaling arrangement for producing the item of driver information as a function of the recognized course of the roadway (column 1, line 58 – column 2, line 27; and column 8, lines 1-15; Kojima discloses that the image sensor is disposed to sense images of the landscape ahead of the vehicle. The control unit is operable to extract obstacle information from the sensed image. Because of the positioning of the image sensors, obstacles must be on the course of and also define the roadway. Capturing images ahead of the vehicle and extracting the obstacle information from the captured image for display to the user is viewed as recognizing the course of a roadway. The images for display to a driver show a detected obstacle along with vehicle lanes ahead of said driver's vehicle. These teachings meet the limitations of recognizing the course of the roadway. See figures.)

As for **claim 13**, the at least one processing unit includes an arrangement for recognizing at least one object (distance detection means 2, 22, 42), from at least the optical signal, and for

controlling the at least one signaling arrangement as a function of a position of the at least one recognized object in relation to the course of the roadway (column 1, lines 45-67).

Regarding **claim 14**, the at least one object includes at least one of at least one other motor vehicle and at least one pedestrian (column 2, lines 51-57 and column 9, lines 17-30).

As for **claim 15**, the at least one processing unit includes an arrangement for controlling the at least one signaling arrangement as a function of at least one of a dangerousness of a driving situation (obstacle closest to vehicle, indicating possible collision) and of a visibility condition (column 9, lines 17-30; column 10, lines 5-13; and column 21, lines 41-56).

Regarding **claim 16**, at least one sensor including at least one of at least one radar sensor, at least one ultrasonic sensor, and at least one LIDAR distance sensor, wherein: the at least one processing unit includes an arrangement for carrying out at least one of the recognition of the course of the roadway and the recognition of the at least one object as a function of a signal of the at least one additional sensor (distance detection means; column 1; lines 45-67).

As for **claim 17**, the item of driver information represents at least one object including at least one of at least one other motor vehicle, at least one pedestrian, and the course of the roadway (column 2, lines 51-57 and column 9, lines 17-30).

Regarding **claim 18**, the item of driver information includes at least one of at least one light pulse, at least one warning symbol, at least one image marking, at least one segment of an image, at least one acoustic signal, and at least one haptic signal (column 2, lines 10-27; column 4, lines 38-41; and column 12, lines 3-19).

Regarding **claim 19**, at least one infrared radiation source for illuminating at least a part of the surrounding environment, acquired by the at least one infrared-sensitive image sensor system, of the motor vehicle (column 1, lines 45-57).

As for **claim 20**, the at least one signaling arrangement includes one of at least one acoustic signaling arrangement and at least one optical signaling arrangement corresponding to at least one of at least one head-up display, at least one display screen, and at least one haptic signaling arrangement (column 1, lines 15-52).

As for **claim 21**, the claim is interpreted and rejected using the same reasoning as the claims above. It is inherent that the method steps are present in the invention disclosed by Kojima.

As for **claim 22**, the claim is interpreted and rejected using the same reasoning as any one of claims 13-20 above.

As for **claim 23**, for the purposes of rejection in the event that the 35 USC 101 rejection is overcome; Kojima discloses that the invention is executed using software (column 8, lines 49-52 and column 14, lines 7-11).

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M. Blount whose telephone number is (571) 272-2973. The examiner can normally be reached on Monday-Thursday 8:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Eric M. Blount
Examiner
Art Unit 2612

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2/04/08